

Child Protection (Child Sex Offender Register) Bill

Government Bill

As reported from the Social Services Committee

Commentary

Recommendation

The Social Services Committee has examined the Child Protection (Child Sex Offender Register) Bill and recommends by majority that it be passed with the amendments shown.

Introduction

This bill would establish a register of child sex offenders. The register would provide the New Zealand Police, the Department of Corrections, and other specified agencies with information to help monitor registered child sex offenders in the community. The Government expects the register to help reduce sexual reoffending against child victims.

The bill would require offenders to register if they:

- are convicted of one of the child sexual offences listed in the Schedule, and
- were aged 18 or over when they offended, and
- are either sentenced to
 - imprisonment, or
 - a non-custodial sentence and are directed by the judge to be registered.

A person guilty of a corresponding offence in a foreign jurisdiction would also have to register if they live in New Zealand. This would include offenders deported to New Zealand.

Offenders on the register would have to provide relevant personal information to the register and to update the information

- annually
- within 72 hours of any change of details, and

- at least 48 hours before travelling.

The register would be administered by the New Zealand Police and the Department of Corrections.

In the interests of public safety, specified agencies—the Police, the Department of Corrections, the Ministry of Social Development, and Housing New Zealand Corporation—would be able to share relevant information amongst themselves. If the Commissioner of Police believed that an offender posed a threat to the life, welfare, or sexual safety of a particular child or particular children, affected persons such as parents, guardians, or teachers could be informed that the person is a registered offender.

Offenders would remain on the register for either 8 years, 15 years, or life, depending on their offence and sentence.

The following commentary discusses significant issues and amendments. It does not discuss the more minor, consequential, or technical amendments.

Better guidance for courts in deciding whether to place a non-custodial offender on the register

Clause 8 would empower a judge who finds a person guilty of a qualifying offence, and imposes a non-custodial sentence, to order that the person be placed on the register. We recommend inserting clause 8(3) to give extra guidance to judges when assessing the risk posed by the offender. Matters for consideration would include:

- the seriousness of the offence
- the period of time since the offence
- the ages of the offender and victim
- any written assessment of the risk posed by the offender
- any submission or evidence from a victim of the offence
- any other submission or evidence about the risk posed by the offender.

Judge's sentencing notes should be on the register

We recommend inserting paragraph (ca) into clause 9(2) to require the judge's sentencing notes to be included in the information that is held on the register. These notes, which typically set out the circumstances around the offending, would make it easier for the Police or the Department of Corrections to assess an offender's risk.

Registrar should inform Police and Corrections when a person is added to the register

We recommend changing clause 11(3) to specify that it is the court registrar—not the judge—who must tell the Commissioner of Police and the chief executive of the Department of Corrections that an offender has been added to the register.

Information required from registered offenders

We recommend making several changes to the information that registrable offenders would have to provide to the Police under clause 15.

Clause 15(1)(e) would require the names and dates of birth of children who generally reside in the same household as the offender to be provided. We recommend amending this clause to also require information on the sex of each child.

We do not consider it appropriate to require passwords to be provided, nor usernames for Internet accounts and activities that do not pose a risk to children. We recommend amending clause 15(1)(n) by removing the requirement to provide login details, usernames, and passwords; and inserting a requirement to provide the name of the offender's Internet service provider and details of any routing or modem device. We recommend changing clause 15(1)(o) to narrow the required information to usernames for social networks, gaming accounts, and online storage accounts. We recommend inserting new paragraph (oa) into clause 15(1) to require the offender to provide details of any website domain that they own or administer.

Clause 19 would require an offender to report to the Commissioner within 72 hours of their details changing. We recommend amending subclause (1) so that offenders must report a change in address at least 48 hours before moving. This would make clause 19 compatible with the requirement, under clause 20, to report the details of intended travel at least 48 hours in advance. Proposed new subclause (2A) makes it clear that if a change of address has been reported in the course of reporting travel information, it would not have to be reported again.

Clause 20(2)(c) requires information to be reported about children residing at addresses at which the offender intends to stay. We recommend requiring information only about children who would be likely to reside **with** the offender at those addresses. This would exclude children who are with other people at accommodation such as hotels where an offender is staying.

Photos only to be taken for ongoing identification

Clause 29 authorises photos to be taken of registrable offenders. We recommend specifying in clause 29 that photos may only be taken for the purpose of ongoing identification of an offender. We expect that photos would be regularly taken because appearances can change over time.

Removing information stored by the Police

Clause 31 would allow the Police to enter, record, and store on any Police information recording system the identifying particulars (fingerprints, fingerscans, and photos) of a registered offender. However, this information would not be subject to any of the protections that would apply to the information on the register, such as the requirement to remove information under clause 47(6).

We recommend inserting subclause (3) into clause 31 so that, when the Commissioner revokes a decision to place a person on the register, the information about them that was on the register is also removed from any Police information recording systems.

Reporting period

We recommend amending clause 33 to make it clear when an offender must start reporting. New subclause 33(c) would relate to offenders coming to New Zealand from overseas.

Clause 34 sets out the length of reporting periods for registrable offenders. These differ according to the seriousness of offence: 8 years, 15 years, or life.

We recommend amending subclause (1) to incorporate offences that have been repealed, and inserting subclauses (2) and (3) to include corresponding offences committed overseas.

We also recommend making it clear, in new subclause 34(4), that when reporting obligations are suspended by the Commissioner, this would only be a suspension of the reporting obligations, and not a suspension of time on the register.

Applying for review of reporting obligations

The Attorney-General has reported to the House under section 7 of the New Zealand Bill of Rights Act 1990. He considers that the bill as drafted is inconsistent with section 9.

Section 9 of the Act affirms the right not to be subjected to disproportionately severe treatment or punishment. The Attorney-General considers that it would be disproportionate to subject offenders to a lifetime of registration and reporting with no possibility for review.

We recommend inserting new clause 36A, which we hope will ease the Attorney-General's concerns. It would allow those who are on the register for life to apply to the District Court after 15 years for their reporting obligations to be suspended indefinitely.

Under clause 36A(4), an offender would have to satisfy the court that they did not pose a risk to the life or sexual safety of one or more children. Under clause 36A(3), the Police and the Department of Corrections would be entitled to make a submission to the court on the application.

When assessing the offender's risk, the court would have to consider the same matters that are listed under our proposed new clause 8(3) (discussed above). If the court declined to suspend the reporting obligations, new provisions 36A(2)(c) and 36A(6) would mean that offenders would usually have to wait five years before re-applying.

Under new subclauses (7) and (8), the Police or the Department of Corrections could apply for the suspension to be revoked if they believed that the risk posed by the offender had changed. They would have to satisfy the court that the offender does pose a risk to the life or sexual safety of one or more children.

Disclosure of personal information

Clauses 41 and 42 would enable certain agencies to share information that is on the register. Where there is a threat to child safety or welfare, clause 43 would allow the Commissioner to authorise the disclosure of information to an affected person such as a parent, guardian, teacher, or caregiver.

Clause 44 would allow this information to be disclosed even if the offender's identity was subject to a suppression order.

We recommend inserting subclause (2) into clause 44 so that notice of the suppression order must accompany the disclosure of that information. This would ensure that the recipient of the information is aware that the suppression order exists.

Clause 45 would create offences for the unauthorised disclosure of information from the register. Individuals convicted of an offence under this clause would be subject to imprisonment for up to six months. Bodies corporate would be subject to a fine of up to \$25,000.

We recommend that the maximum fine for bodies corporate be increased to \$50,000. This would bring it into line with similar penalties in the Criminal Procedure Act 2011.

Requests to change incorrect information

Clause 46 would allow offenders to see what information the register holds about them, and to request that it be amended if it is incorrect. If the Commissioner was satisfied that the information was incorrect, it would have to be corrected.

Where an offender has requested that information be changed, but the Commissioner is not satisfied that it is incorrect, we believe that a note should be made of this fact. We recommend inserting subclause (5) into clause 46 so that a record must be kept if an offender has requested a correction to the information on the register, but the Commissioner has denied the request.

Process when a person is mistakenly on the register

If a person believed that they had been mistakenly placed on the register, or that a mistake had been made about the length of their reporting period, clause 47 would allow them to apply to the Commissioner to review the decision.

We recommend inserting clause 47A to enable an offender to appeal to the District Court to challenge the Commissioner's decision about their placement on the register or their reporting period. Subclause (4) of new clause 47A would prevent any appeals from the District Court's decision.

We also recommend inserting new subparagraph (iii) into clause 47(5)(d) to make sure that offenders are told about this right of appeal.

Approval for name change

The bill as referred to us contains no provisions restricting or preventing registered offenders from changing their name. We have some concerns about the implications of this for the effectiveness of monitoring offenders. We recommend inserting new Subpart 4 into Part 2. Subpart 4 incorporates new clauses 48A, 48B, and 48C.

We propose that people on the register be allowed to change their name, but only once they have sought and received the Commissioner's approval to do so.

New clause 48B would require a person on the register to seek the Commissioner's approval before applying for a name change under the Births, Deaths, Marriages, and Relationships Registration Act 1995. Under new clause 48B(2), it would be an offence to not seek approval, with a penalty of up to \$4,000 or imprisonment for up to 2 years. This penalty is similar to that proposed for providing false or misleading information under clause 38 of the bill.

Proposed new clause 48C contains a list of factors that the Commissioner would have to consider when deciding whether to approve the making of an application for a name change.

We currently have before us the Births, Deaths, Marriages, and Relationships Registration (Preventing Name Change by Child Sex Offenders) Amendment Bill, which seeks to permanently prevent convicted child sex offenders from changing their names. We note some similarity between that bill and our recommendation on this bill that those on the register must seek and receive permission from the Commissioner prior to applying for a name change.

The Attorney-General considers, in his report under the New Zealand Bill of Rights Act on the other bill before us, that it would be inconsistent with the right to freedom of expression to permanently prevent offenders from changing their names. He states that the proposed ban is not rationally connected to its objective, that it would impair the right to freedom of expression more than necessary, and that it would be disproportionate to its objective. He notes that there may be genuine reasons for wanting to change one's name, including marriage, adoption, witness protection, and rehabilitation of offenders.

We have considered both written and oral evidence from the Attorney-General's office on that report. Suggested alternatives to an absolute ban included requiring registered offenders to notify the Police if they have changed their name, and seeking prior consent before a change of name is registered. In the case of this bill, and our proposed new clauses 48B and 48C, we have recommended the latter option.

We note that registered child sex offenders may be granted approval by the Commissioner to apply to change their names, and that not all registered offenders would be on the register and subject to new clause 48B indefinitely. We are therefore satisfied that our recommendation would not unjustifiably limit registered child sex offenders' rights to freedom of expression.

Delegated legislation

Power to grant exemptions removed

Clause 49(b) would allow regulations to be made excluding any person or class of persons from being registrable offenders. The purpose of this subclause is not clear to us. No criteria are set out for the making of regulations under the subclause, and there is no requirement to give reasons in the regulations themselves. Nor is there a time limit on regulations that could be made under the subclause.

We are not satisfied that this exemption power is required. We recommend that it be removed from the bill.

As a consequence of removing clause 49(b), clause 7(2) should also be removed.

Power to amend qualifying offences removed

Clause 50 would allow the list of qualifying offences to be amended by Order in Council. However, the Regulations Review Committee advised us that provisions authorising delegated legislation to amend primary legislation should be avoided unless their use is “demonstrably essential”.¹ They should only be used in exceptional circumstances.

It is not clear why such a power would be needed in this bill. We do not consider that the power would be justified, and we recommend deleting clause 50.

Retrospective application of bill

To provide structural consistency between New Zealand statutes, the transitional provisions should be set out in a Schedule. We recommend moving the transitional provisions contained in clause 51 to a new Schedule 1; and inserting new clause 4A into Part 1 of the bill to refer to new Schedule 1.

We recommend making clause 1(1) of new Schedule 1 more specific about who the bill would retrospectively apply to. We also recommend inserting new clause 1(2) into Schedule 1, to include persons in New Zealand who committed a corresponding offence before the date on which the bill comes into force.

New Zealand Bill of Rights Act 1990

In his report under section 7 of the New Zealand Bill of Rights Act, the Attorney-General states that he considers that the bill as introduced would be inconsistent with section 26(2) of that Act. Section 26(2) affirms that no one who has been convicted of an offence should be punished for it again.

His concern is based on the retrospective application of the bill to those already in custody, or on parole, or subject to an Extended Supervision Order. This is viewed as additional punishment that was not applicable at the time they committed the offence.

¹ Report of the Committee on Ministers' Powers 1932, Cmnd 2060 (*The Donoughmore Report*)

The Attorney-General considers that although this inconsistency could be rationally linked to addressing a matter essential to public safety, it went further than necessary: it risked becoming disproportionately severe without some limitation or review period (for those with lifetime reporting obligations). He therefore concludes that it could not be justified under section 5 of the New Zealand Bill of Rights Act.

We consider that the retrospective provisions are necessary to remove the immediate risk presented by these previously-convicted child sex offenders. We believe these offenders should be subject to the reporting requirements.

As discussed earlier, we have recommended inserting new clause 36A to allow those who are on the register for life to apply after 15 years for their reporting obligations to be indefinitely suspended. We noted that this could help to allay the Attorney-General's concerns in relation to section 9 of the New Zealand Bill of Rights Act; and we believe this amendment will also address some of the concerns around the retrospective aspects of the bill. This is because those who would be retrospectively covered by the legislation would not necessarily be subject to reporting obligations for life; they would be able to seek a review after 15 years.

We note also that for these offenders who are already in the community, the reporting requirements would be back-dated to commence from the date they were released from custody, not from the date the bill comes into force. This would minimise the length of time for which these offenders are registered.

Schedule of qualifying offences

In the Schedule of the bill as introduced, which we propose to rename Schedule 2, we recommend reversing the order of the classes of offences, so that class 1 becomes the least serious and class 3 the most serious. This order would match the offence classes in the Criminal Procedure Act, where category 1 offences are the least serious and category 4 the most serious.

We recommend moving a small number of offences to a different class, to demonstrate the following rationale behind each class:

- class 1 would contain non-contact and enabling offences
- class 2 would contain sexual assaults or acts
- class 3 would contain sexual violation or connection offences.

We recommend inserting subclause (b) into the list of class 1 offences in Schedule 2, clause 1. This contains offences relating to objectionable publications. We consider their inclusion important in addressing the online exploitation of children.

We recommend inserting section 144A(4) of the Crimes Act 1961 into Schedule 2, clause 1(a). This would bring in, under class 1, offences relating to procuring, providing, assisting, or using underage persons in prostitution when overseas.

We recommend inserting section 144AB(1) of the Crimes Act into Schedule 2, clauses 2(o) (class 2) and 3(q) (class 3). This would bring in the offence of being a

party or accessory after the fact to an offence under section 144A involving foreign principal parties.

We recommend inserting new clause 4 into Schedule 2. This would capture offences that have been repealed but which are the same or similar to offences listed in Schedule 2.

Register should not be publicly accessible

Many submitters posited that the register should be public. We heard that it is the right of the public to know who the offenders are and where they live, so that people can protect their children; and that making the register public would discourage offending.

We appreciate that some people strongly support these arguments. However, we do not recommend making the register available to the public.

We note that most organisations who submitted, who are actively working with victims of abuse and/or sex offenders, advised against making the register public. They pointed out that there is little or no evidence to suggest that this would improve public safety overall. There is evidence, however, that it could increase the risk of reoffending by severely disrupting the life of the offender and their family. There are also concerns that a public register could be inconsistent with the New Zealand Bill of Rights Act 1990, or the Privacy Act 1993.

New Zealand Labour Party minority view

Labour supports the intent of the bill “to reduce sexual reoffending against child victims, and the risk posed by serious child sex offenders by providing government agencies with the information needed to monitor child sex offenders in the community and providing up-to-date information that assists the Police to more rapidly resolve cases of child sex offending.”

We do, however, have several concerns with respect to the proposed “child sex offender register” being an effective mechanism.

As raised by several submitters, a sex offender register can give a “false sense of security.” People can misinterpret the absence of a name on a register as an indication of safety despite the fact that the majority of those that perpetrate sexual offences against children are family members or people who are well known to the family. Therefore the benefits of a register to inform statutory agencies about the movements of child sex offenders is likely to be limited.

Labour is concerned that significant investment is required to establish a register of this nature. The Regulatory Impact Statement states that the 10-year cost of the register is \$146 million. Our concern is that the costs of setting up the register are disproportionate to the evidence in terms of benefit. Several submitters working in this area cited serious underfunding of proven strategies for curbing sexual offending and struggled to reconcile this underfunding with the investment of \$146 million into a register. Submitters articulated the need for Government to place a higher emphasis

on investing in research and evaluation of other means of reducing offending, such as specialist offender treatment, primary preventive education, as well as working with children, young people, families, and communities about recognising harmful behaviour.

To counter concerns we have around the potential false sense of security created by this bill, and the potential that this bill could mean spending more on a register than on proven effective intervention measures, we will be seeking assurances through the final stages of this bill that an equivalent or greater level of investment will go into programmes that are proven to make a difference, and will ultimately prevent offending and reoffending.

We will additionally seek to change the name of this bill to demonstrate that it should only ever be used as an internal mechanism to record offenders' details, and that it should not, under any circumstances, become a public register.

Green Party of Aotearoa New Zealand minority view

The Green Party supported this bill at first reading so that a select committee process could provide a forum for informed public debate on a contentious issue. We wanted to hear a range of views and evidence for and against the establishment of a register, and to assess whether the objectives of the bill would be achieved.

The Human Rights Commission notes that implementation of the child sex offender register would be costly and (along with other informed submitters) suggests that the money would be much better spent on preventative and treatment measures. In a similar vein, the New Zealand Council for Civil Liberties submitted that the bill makes no economic sense and would establish a harsh regime with very little justification.

The section 7 Bill of Rights Act report found that the bill is unjustifiably inconsistent with sections 9 and 26(2) of the Bill of Rights Act 1990. In our view, none of the concerns raised in the section 7 report have been adequately addressed or mitigated during the select committee process. The bill still disproportionately punishes offenders (the addition of clause 36A, which only allows for a review after 15 years from sentencing, does little to address this concern) and can still give rise to instances of double jeopardy. The bill can also still be applied retrospectively.

The New Zealand Law Society expresses serious concerns about the extent to which the bill infringes on civil rights and freedoms. They suggest that the intent of the bill could be achieved more effectively by allowing judges and the New Zealand Parole Board discretion to impose a registration and reporting requirement in individual cases where the evidence suggests it is warranted.

The bill currently gives a large number of agencies access to the proposed register. As such, it is almost inevitable that the contents would be leaked. This non-negligible possibility would potentially have significant and serious consequences for those on the register, even those who have ceased to offend.

The bill also includes a "catch all" clause that allows information in the register to be used for "other purposes" on the basis of "preventing or reducing a threat to public

safety.” The bill does not define what constitutes “preventing or reducing a threat to public safety”, giving agencies an unacceptably broad discretion to access and publicise the information on the register.

The select committee process has seen minor changes but none have been sufficient to make the legislation acceptable overall. The bill is almost certain to cause harm. It has been shown to impose significant financial and social costs and we have seen no firm evidence that it will do any good at all, let alone achieve its stated purpose of protecting children.

We do not believe the bill should progress in its current form, but could consider support for amended legislation in line with the recommendation of the New Zealand Law Society mentioned in paragraph 4 of our view, above.

New Zealand First Party minority view

New Zealand First believes that the implementation of a child sex offender register is needed as a monitoring tool and a tool to help prevent convicted child sex offenders from reoffending.

More than 20 countries worldwide either have a register or are in the process of establishing one.

We have concerns about the cost breakdown of the register where, of the \$146 million to establish the register over 10 years, \$85 million will need to be met within existing baselines. This will mean resources, manpower, and time will be taken away from other areas within the Police, the Department of Corrections, and the Court system in order for the register to be functioning adequately. If the movement of resources does not occur it seems the register would not be resourced properly and would not provide the desired monitoring that it aims to achieve.

New Zealand First believes that the length of time on the register should be allocated based on the risk of reoffending, not just solely on the severity of the crime. The register should be a tool to stop reoffending and therefore should be based on such, and not used as another form of punishment.

New Zealand First believes that when dealing with any legislation around child sex abuse the rights of the child should be the centre and start of any discussion. This means the rights of the victims of child abuse, and just as importantly the rights of the future potential victims of child abuse, should be placed at the centre of the intent, purpose, and operation of this register.

In regards to the Child Protection (Child Sex Offender Register) Bill, this means that New Zealand First believes it should be made a publicly accessible register. The public of New Zealand have the right to know who in their neighbourhoods the convicted child sex offenders are. The children of New Zealand have the right to know that their caregivers are aware of who in their neighbourhoods the convicted child sex offenders are. This would allow the public to be the eyes and ears for the Police and their management of the register. It would allow the most vulnerable in our society to have the extra protection they need. New Zealand First is against using ideology that places

the rights of the perpetrator above the protection and rights of the child. Public safety concerns and the safety of children who are the most vulnerable and defenceless, outweigh the privacy or equal-protection claims of a sex offender.

New Zealand First believes this register should not be viewed or used as a punishment but instead as a further monitoring tool for sex offenders within our communities.

Appendix

Committee process

The Child Protection (Child Sex Offender Register) Bill was referred to the committee on 15 September 2015. The closing date for submissions was 28 October 2015. We received and considered 144 submissions from interested groups and individuals. We heard 22 submissions.

We received advice from the New Zealand Police and the Department of Corrections. The Regulations Review Committee provided written advice on the powers contained in clauses 49 and 50.

We considered the bill alongside the Report of the Attorney-General on the Child Protection (Child Sex Offender Register) Bill.

Committee membership

Alfred Ngaro (Chairperson)

Darroch Ball

Matt Doocey

Jan Logie

Todd Muller

Jono Naylor

Dr Parmjeet Parmar

Carmel Sepuloni

Stuart Smith

Phil Twyford

David Clendon replaced Jan Logie on an ongoing basis for this item of business.

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

~~text deleted by a majority~~

Hon Anne Tolley

Child Protection (Child Sex Offender Register) Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Child Protection (Child Sex Offender Register) Act **2015**.

2 Commencement

This Act comes into force on **1 July 2016**.

Part 1
Preliminary matters

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3 Purpose

The purpose of this Act is to establish a Child Sex Offender Register that will reduce sexual reoffending against child victims, and the risk posed by serious child sex offenders, by—

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- (a) providing government agencies with the information needed to monitor child sex offenders in the community, including after the completion of the sentence; and
- (b) providing up-to-date information that assists the Police to more rapidly resolve cases of child sexual offending.

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4 Interpretation

In this Act, unless the context otherwise requires,—

affected person has the meaning given in **section 43(3)**

authorised person means a person appointed by the Commissioner under **section 10(3)**

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child means a person under the age of 16 years

class 1 offence, **class 2 offence**, and **class 3 offence** have the meanings given to them in ~~the Schedule~~ **Schedule 2**

Commissioner means the Commissioner of Police

constable has the meaning given in section 4 of the Policing Act 2008

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corresponding Act means a law of a foreign jurisdiction—

- (a) that provides for people who have been sentenced by a court for specified offences to report in that jurisdiction information about themselves and to keep that information current for a specified period; and
- (b) that regulations state is a corresponding Act for the purposes of this Act

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corresponding law enforcement agency means an agency with law enforcement functions in a jurisdiction that has a corresponding Act

corresponding offence means an offence under the law of a foreign jurisdiction that relates to the same or substantially similar conduct as a qualifying offence

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- corresponding registrable offender** has the meaning given in **section 7**
- corresponding Registrar** means the person whose functions under a corresponding Act most closely correspond to the functions of the Commissioner under this Act
- custody**, in relation to a registrable offender, means— 5
- (a) the lawful custody of the Police or of the Department of Corrections:
 - (b) subject to detention in a hospital under section 45 or 46 of the Mental Health (Compulsory Assessment and Treatment) Act 1992 or under section 34(1)(a)(i) of the Criminal Procedure (Mentally Impaired Persons) Act 2003 10
- equivalent repealed offence** means an offence described in **clause 4 of Schedule 2**
- initial report** means a report made, or required to be made, by a registrable offender under **section 16**
- IP address** means an Internet protocol address 15
- Minister** means the Minister of Police
- Police** means the New Zealand Police
- qualifying offence** means a class 1 offence, a class 2 offence, ~~or a class 3 offence~~ a class 3 offence, or an offence referred to in **clause 4 of Schedule 2**
- register** means the Child Sex Offender Register established under **section 9(1)** 20
- registrable offender** has the meaning given in **section 6**
- registration order** means an order imposed by a court under **section 8**
- relevant personal information** means the information specified in **section 15** 25
- reporting obligations**, in relation to a registrable offender, means the obligations imposed on the person by **subpart 2 of Part 2**
- reporting period** means the period, as determined under **sections 33 to 35**, during which a registrable offender must comply with the offender's reporting obligations 30
- specified agency** has the meaning given in **section ~~42(2)~~ 41(2)**
- telecommunications service** has the meaning given in section 5 of the Telecommunications Act 2001.
- 4A Transitional, savings, and related provisions**
- The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.** 35

5 Act binds the Crown

This Act binds the Crown.

*Offenders to whom Act applies***6 Who is a registrable offender?**

- (1) A **registrable offender** is a person whom a court has, in respect of a qualifying offence,— 5
- (a) sentenced to imprisonment; or
 - (b) sentenced to a non-custodial sentence and made subject to a registration order.
- (2) A person who is a corresponding registrable offender and who resides in New Zealand or enters New Zealand with the intention to reside in New Zealand is also a registrable offender. 10
- (3) However, a person is not a registrable offender if, at the time the person committed the qualifying offence, the person had not attained the age of 18 years.
- (4) A person ceases to be a registrable offender if— 15
- (a) the finding of guilt in respect of each qualifying offence that makes him or her a registrable offender for the purposes of this Act is quashed or set aside by a court; or
 - (b) the sentence in respect of that offence is reduced or altered so that he or she would not have fallen within the definition of registrable offender in **subsection (1)** had the amended sentence been the original sentence. 20
- (5) For the purposes of this section, it is irrelevant whether a person may lodge, or has lodged, an appeal in respect of a finding of guilt or in respect of a sentence. 25
- Compare: Child Protection (Offenders Registration) Act 2000 ss 3A(1), (4), 3B (NSW); Sex Offenders Registration Act 2004 s 6(1), (2), (6), (7) (Vic)

7 Who is a corresponding registrable offender?

A **corresponding registrable offender** is a person who has been found guilty of a corresponding offence in a foreign jurisdiction and,—

- (a) in respect of that offence, has been sentenced to imprisonment; or
 - (b) as a consequence, has been required to report in that jurisdiction information about himself or herself to a person or body exercising functions substantially similar to those of the Commissioner under this Act, and to keep that information current for a particular period (and would, if the person were currently in that jurisdiction, still be required to report that information). 30
- (2) ~~The regulations may exclude any person or class of persons from being a corresponding registrable offender.~~ 35
- Compare: Child Protection (Offenders Registration) Act 2000 s 19BB(1), (4) (NSW)

*Registration orders***8 Court may make registration order**

- (1) If a court finds a person guilty of a qualifying offence and imposes a non-custodial sentence in respect of that offence, the court may order that the person must be placed on the register and must comply with the reporting obligations of this Act. 5
- (2) A court may make an order under this section (a **registration order**) only if the court is satisfied that the person poses a risk to the lives or sexual safety of 1 or more children, or of children generally.
- (3) For the purpose of assessing the risk posed by the person, the court must consider the following matters: 10
- (a) the seriousness of the qualifying offence:
 - (b) the period of time that has elapsed since the offence was committed:
 - (c) the age of the person:
 - (d) the age of the person at the time of the offence: 15
 - (e) the age of any victim of the offence at the time of the offence:
 - (f) the difference in age between the victim and the person at the time of the offence:
 - (g) any written assessment of the risk posed by the person:
 - (h) any submission or evidence from any victim of the offence: 20
 - (i) any other submission or evidence relating to the risk posed by the person:
 - (j) any other matter that the court considers relevant.

Compare: Child Protection (Offenders Registration) Act 2000 s 3D(1), (2) (NSW)

Part 2 25**Child Sex Offender Register**

Subpart 1—Establishment and administration of register

9 Child Sex Offender Register established

- (1) The Commissioner must establish a register of registrable offenders called the Child Sex Offender Register. 30
- (2) The register must contain the following information in relation to each registrable offender (to the extent that it is known by the Commissioner):
- (a) the registrable offender's name and other identifying particulars:

(b)	details of each qualifying offence or corresponding offence of which the registrable offender has been found guilty or with which he or she has been charged:	
(c)	the date on which the registrable offender was sentenced for any qualifying offence:	5
<u>(ca)</u>	<u>for each qualifying offence of which the registrable offender has been found guilty, the sentencing notes of the sentencing Judge:</u>	
(d)	the date on which the registrable offender ceased to be in custody in respect of a qualifying offence, or entered or ceased to be in custody in respect of any offence during his or her reporting period:	10
(e)	any information reported in respect of the registrable offender under subpart 2 of this Part:	
(f)	any information provided to the Commissioner in respect of the registrable offender under this Part.	
	Compare: Child Protection (Offenders Registration) Act 2000 s 19 (NSW); Child Sex Offenders Registration Act 2006 s 60 (SA)	15
10	Administration of register	
(1)	The Commissioner is responsible for the administration of the register.	
(2)	Before making significant operational decisions about the way in which the register is administered, the Commissioner must consult with the chief executive of the Department of Corrections.	20
(3)	For the purpose of administering the register, the Commissioner may appoint any of the following to be authorised persons:	
(a)	1 or more Police employees (within the meaning of section 4 of the Policing Act 2008):	25
(b)	1 or more employees of the Department of Corrections nominated by the chief executive of the Department.	
Subpart 2—Reporting obligations		
<i>Notification of reporting obligations</i>		
11	Notices to be given when registrable offender sentenced	30
(1)	This section applies only in relation to registrable offenders sentenced in New Zealand for a qualifying offence.	
(2)	As soon as practicable after a registrable offender is sentenced, the sentencing court must give written notice to the offender of—	
(a)	the offender’s reporting obligations; and	35
(b)	the penalties for failing to comply with those obligations.	

- (3) As soon as practicable after a registrable offender is sentenced, the registrar of the sentencing court must give written notice of that fact to—
- (a) the Commissioner; and
 - (b) the chief executive of the Department of Corrections.
- Compare: Child Protection (Offenders Registration) Act 2000 s 4(1), (2) (NSW) 5
- 12 Notices to be given when registrable offender ceases to be in custody**
- As soon as practicable before or after a registrable offender who has been in custody for 14 or more consecutive days ceases to be in custody, whether in respect of a qualifying offence or otherwise, the chief executive of the Department of Corrections must give written notice to the offender of— 10
- (a) the offender’s reporting obligations; and
 - (b) the penalties for failing to comply with those obligations.
- Compare: Child Protection (Offenders Registration) Act 2000 s 6(2) (NSW)
- 13 Notices may be given by Commissioner**
- The Commissioner may, if he or she suspects that a registrable offender may not have received notice, or may otherwise be unaware, of the offender’s reporting obligations, cause written notice to be given to the offender of— 15
- (a) the offender’s reporting obligations; and
 - (b) the penalties for failing to comply with those obligations.
- Compare: Child Protection (Offenders Registration) Act 2000 s 7(1) (NSW) 20
- 14 Notices to be given to corresponding registrable offenders who enter New Zealand**
- (1) This section applies to a corresponding registrable offender who enters New Zealand, if the offender has not previously been given notice of the offender’s reporting obligations in New Zealand. 25
 - (2) The Commissioner must, as soon as practicable after becoming aware that the offender has entered New Zealand, cause written notice to be given to the offender in accordance with the requirements of **section 13**.
- Compare: Child Protection (Offenders Registration) Act 2000 s 7A (NSW)
- Initial report* 30
- 15 Relevant personal information to be reported**
- (1) For the purposes of this Act, the **relevant personal information** to be reported by a registrable offender consists of the following information:
 - (a) his or her name, together with any other name by which he or she is, or has previously been, known: 35
 - (b) in respect of each name other than his or her current name, the period during which he or she was known by that other name:

- (c) his or her date of birth:
- (d) the address of each of the premises at which he or she generally resides or, if he or she does not generally reside at any particular premises, the name of each of the localities in which he or she can generally be found:
- (e) ~~the name~~ name, sex, and date of birth of each child who generally resides in the same household as that in which the offender generally resides: 5
- (f) in respect of each child who generally resides in the same household as that in which the offender generally resides, the name of the principal caregiver: 10
- (g) his or her postal address for service of notices and documents under this Act:
- (h) if he or she is working,—
- (i) the nature of the work; and
- (ii) the name of his or her employer (if any); and 15
- (iii) the address of each of the premises at which the offender generally works or, if he or she does not generally work at any particular premises, the name of each of the localities at which he or she generally works:
- (i) details of his or her affiliation with any club or organisation that has a child membership or child participation in its activities, including any online club or organisation: 20
- (j) the make, model, colour, and registration number of any motor vehicle owned by, or generally driven by, the offender:
- (k) details of any tattoos, scars, or permanent distinguishing marks that he or she has (including details of any tattoo or mark that has been removed): 25
- (l) if, at the time of making an initial report, he or she has 1 or more valid passports, the passport number, place of issue, and date of expiry of each passport:
- (m) details of any telecommunications service used, or intended to be used, by the offender, including— 30
- (i) the name of any landline or mobile telephone service provider used, or intended to be used, by the offender; and
- (ii) any phone numbers used, or intended to be used, by the offender:
- (n) ~~details of any Internet service provider (including login details, user name, and password)~~ the name of any Internet service provider, and the details of any routing or modem device, used, or intended to be used, by the offender: 35

- (o) details of any ~~online accounts and online aliases~~ username for any online social networks, online gaming accounts, or online storage accounts used, or intended to be used, by the offender:
- (oa) details of any website domain owned or website administered, or intended to be owned or administered, by the offender: 5
- (p) details of any email addresses used, or intended to be used, by the offender.
- (2) For the purposes of this section,—
- (a) a registrable offender does not generally reside at any particular premises unless he or she resides at those premises for at least 2 days (whether consecutive or not) in any period of 12 months; and 10
- (b) a child does not generally reside in the same household as a registrable offender unless they reside together in that household for at least 2 days (whether consecutive or not) in any period of 12 months; and
- (c) a registrable offender does not generally work at any particular premises unless he or she works at those premises for at least 14 days (whether consecutive or not) in any period of 12 months; and 15
- (d) a registrable offender does not generally drive a particular motor vehicle unless the person drives that vehicle on at least 14 days (whether consecutive or not) in any period of 12 months. 20

Compare: Child Protection (Offenders Registration) Act 2000 s 9(1) (NSW); Child Sex Offenders Registration Act 2006 s 13(1), (2) (SA)

16 When initial report must be made

- A registrable offender must make an initial report to the Commissioner of all relevant personal information within 72 hours of— 25
- (a) being released from custody in relation to a qualifying offence; or
- (b) being made subject to a registration order; or
- (c) in the case of a corresponding registrable offender,—
- (i) entering New Zealand from a foreign jurisdiction to reside in New Zealand (if a New Zealand or Australian citizen or holder of a resident's visa); or 30
- (ii) demonstrating an intention to reside in New Zealand by applying for a resident's visa after entering New Zealand from a foreign jurisdiction.

*Ongoing reporting obligations***17 Requirement to make periodic reports**

- (1) A registrable offender must periodically make reports (each a **periodic report**) of the offender's relevant personal information to the Commissioner until the offender's reporting period ends. 5
- (2) However, a registrable offender whose reporting obligations are suspended under **section 35** is not required to make periodic reports while the suspension is in force.
- (3) A periodic report includes a report that simply confirms that the registrable offender's relevant personal information stated in the last report previously made by the offender— 10
- (a) is correct; and
- (b) has not changed since the offender made the last report.
- (4) If the registrable offender has been in custody since he or she last reported his or her relevant personal information under this section, the details he or she must report include details of when and where that custody occurred. 15

Compare: Child Protection (Offender Reporting) Act 2004 s 18 (Qld); Child Sex Offenders Registration Act 2006 s 15(3) (SA)

18 When periodic reports must be made

- (1) A registrable offender must make a periodic report in each year during the reporting period, starting in the first year after the offender makes his or her initial report. 20
- (2) The registrable offender must make the report—
- (a) on the date specified by the Commissioner by notice in writing to the registrable offender, being a date that is— 25
- (i) at least 1 month after the date on which the notice was given; and
- (ii) at least 12 months after the date of the last periodic report by the offender under this Act (if any); or
- (b) if no such date is specified by the Commissioner, by the end of the calendar month in which the anniversary of the date of the last periodic report by the offender under this Act or a corresponding law falls. 30

Compare: Child Protection (Offender Reporting) Act 2004 s 19(1), (2) (Qld); Child Sex Offenders Registration Act 2006 s 15(1), (2) (SA)

19 Requirement to report changes to relevant personal information

- (1) A registrable offender must report to the ~~Commissioner any change in his or her relevant personal information within 72 hours after that change occurs.~~ Commissioner— 35

- (a) any change in the details reported under **section 15(1)(d)** (premises at which the offender generally resides or localities at which the offender can generally be found) at least 48 hours before the change occurs; and
- (b) any other change in his or her relevant personal information within 72 hours after that change occurs. 5
- (2) For the purposes of **subsection (1)**,—
- (a) a change occurs in the premises or household where the registrable offender or a child generally resides only on expiry of the relevant 2-day period referred to in **section 15(2)(a) or (b)**, as the case may be; and
- (b) a change occurs in the premises where the registrable offender generally works, or the motor vehicle that he or she generally drives, only on expiry of the relevant 14-day period referred to in **section 15(2)(c) or (d)**, as the case may be. 10
- (2A) However, a registrable offender who has reported a change of residential address in the course of reporting travel plans under **section 20(2)** is not required to report that same information for the purpose of **subsection (1)**. 15
- (3) If the relevant personal information of a registrable offender (other than one to whom **section 32** applies) changes while he or she is not in New Zealand, he or she must report the change to the Commissioner within 72 hours after entering and remaining within New Zealand for 7 or more consecutive days, not counting any days spent in custody. 20
- (4) A registrable offender who is in custody for 7 or more consecutive days must report his or her relevant personal information to the Commissioner on whichever of the following first occurs:
- (a) within 72 hours after the registrable offender ceases to be in custody; or 25
- (b) before the registrable offender leaves New Zealand.

Compare: Child Sex Offenders Registration Act 2006 s 16(1)–(4) (SA)

20 Travel plans to be reported

- (1) **Subsection (2)** applies if a registrable offender intends to travel away from his or her registered residential address, within New Zealand, for more than 48 hours. 30
- (2) At least 48 hours before travelling, the registrable offender must report the intended travel to the Commissioner and must provide the following details:
- (a) each address at which the offender intends to stay:
- (b) the dates on which the offender intends to stay at each of those addresses: 35
- (c) whether any child ~~generally resides~~ will or is likely to reside together with the offender at any of those addresses:

- (d) if the offender intends to return to his or her registered residential address, the date on which he or she intends to return.
- (3) **Subsection (4)** applies if a registrable offender intends to travel out of New Zealand for more than 48 hours.
- (4) At least 48 hours before travelling, the registrable offender must report the intended travel to the Commissioner and must provide the following details: 5
- (a) the date on which the offender intends to travel out of New Zealand;
- (b) if the offender intends to return to New Zealand, the date on which the offender intends to return;
- (c) if the offender does not intend to return to New Zealand, a statement of that intention. 10
- (5) If exceptional circumstances arise making it impracticable for a registrable offender to whom **subsection (2) or (4)** applies to make the report 48 hours before he or she travels, it is sufficient compliance with **subsection (2) or (4)** if the offender reports the required information to the Commissioner— 15
- (a) as soon as practicable in the circumstances; and
- (b) before travelling.

Compare: Child Sex Offenders Registration Act 2006 s 17 (SA)

21 Change of travel plans while away from home or out of New Zealand to be given 20

- (1) This section applies if a registrable offender who has travelled away from his or her registered residential address decides—
- (a) to extend a stay elsewhere in New Zealand beyond 13 days; or
- (b) to change any details given to the Commissioner under **section 20(2) or (4)**. 25
- (2) As soon as practicable after making the decision, the registrable offender must,—
- (a) if **subsection (1)(a)** applies, report the details required under **section 20(2)** to the Commissioner (including those details as they relate to the travel that has already been completed); or 30
- (b) if **subsection (1)(b)** applies, report the changed details to the Commissioner.
- (3) The registrable offender must make the report—
- (a) by writing sent by post or transmitted electronically to the Commissioner or to any other address permitted by the regulations; or 35
- (b) in any other manner permitted by the regulations.

Compare: Child Sex Offenders Registration Act 2006 s 18 (SA)

- 22 Requirement to report return to New Zealand or decision not to leave**
- (1) This section applies if a registrable offender is required under **section 20** to report that he or she intend to leave New Zealand.
- (2) If the registrable offender leaves New Zealand, he or she must, within 72 hours after entering and remaining in New Zealand for 7 consecutive days (not counting any days spent in custody),— 5
- (a) report his or her return to the Commissioner; and
- (b) present his or her passport for inspection and copying.
- (3) If the registrable offender decides not to leave New Zealand, he or she must report his or her change of intention within 72 hours after deciding not to leave. 10
- Compare: Child Sex Offenders Registration Act 2006 s 19 (SA)

Provisions applying to all reporting obligations

- 23 Where report is to be made**
- (1) A report by a registrable offender under this subpart must be made,—
- (a) if the Commissioner gives the offender a direction that the report is to be made at a specified police station, at that police station; or 15
- (b) if the relevant personal information last reported by the offender indicates an address for premises at which he or she generally resides and the Commissioner gives the offender a direction that the report is to be made at those premises, at those premises; or 20
- (c) if no direction is given under **paragraph (a) or (b)**, at a place approved (either generally or in a particular case) by the Commissioner.
- (2) A direction by the Commissioner under **subsection (1)(a) or (b)**—
- (a) must be given in writing in accordance with any requirements prescribed by the regulations; and 25
- (b) may be varied or revoked at any time by further notice in writing given to the registrable offender by the Commissioner.
- (3) This section does not apply if, under **section 24(2)**, a report is permitted to be made in a way that is inconsistent with this section. 30
- Compare: Child Sex Offenders Registration Act 2006 s 21 (SA)

- 24 How report is to be made**
- (1) A registrable offender must attend in person to make the following reports under this subpart:
- (a) a report required by **section 16** (initial report):
- (b) a report required by **section 17** (periodic report): 35

- (c) a report of a change of address of the premises at which he or she generally resides or, if he or she does not generally reside at any particular premises, of the localities in which he or she can generally be found:
- (d) a report of the acquisition of, removal of, or change to any tattoo or permanent distinguishing mark: 5
- (e) a report required by **section 20(4)**:
- (f) a report required by **section 22(2)**.
- (2) However, a registrable offender may, with the approval of the Commissioner, make any other report required under this subpart in a manner permitted by the Commissioner or by the regulations, either generally or in a particular case (including by email or other form of electronic transmission). 10
- (3) If a report under this subpart—
- (a) is a report referred to in **subsection (1)(a), (b), (e), or (f)**, only a constable may receive it:
- (b) is a report referred to in **subsection (1)(c) or (d)** and is made in person, only a constable or an authorised person may receive it: 15
- (c) is not made in person but is made in accordance with **subsection (2)**, only a constable or an authorised person may receive it.
- (4) If a registrable offender has a disability that makes it impossible or impracticable for him or her to make a report in the manner required, the registrable offender will be taken to make the report if a parent, guardian, carer, or other adult person nominated by the offender and approved by the Commissioner makes the report (so far as is reasonably possible) on the offender's behalf. 20
- (5) A report made on the offender's behalf under **subsection (4)** must be made—
- (a) by both the registrable offender and the person reporting on his or her behalf attending in person; or 25
- (b) in another manner permitted by the Commissioner or by the regulations, either generally or in a particular case (including by email or other form of electronic transmission).
- Compare: Child Sex Offenders Registration Act 2006 s 22 (SA) 30

25 Right to privacy and support when reporting

- (1) A person making a report under this subpart by attending in person at a police station or other place approved by the Commissioner—
- (a) is entitled to make the report out of the hearing of members of the public; and 35
- (b) is entitled to be accompanied by a support person of his or her own choosing.
- (2) A constable or an authorised person receiving the report—

- (a) may arrange for an interpreter to be present when a person is making a report under this subpart; and
- (b) must not allow an interpreter to be present when a person is making a report under this subpart unless the interpreter has signed an undertaking not to disclose any information derived from the report unless required or authorised by or under any enactment to do so. 5

Compare: Child Sex Offenders Registration Act 2006 s 23 (SA)

26 Receipt of information to be acknowledged

- (1) As soon as practicable after receiving a report under this subpart, the constable or authorised person receiving the report must acknowledge the making of the report. 10
- (2) The acknowledgement must be in writing, must be given to the person who made the report, and must include—
 - (a) the name and signature of the constable or authorised person who received the report; and 15
 - (b) the date and time when, and the place where, the report was received; and
 - (c) a copy of the information that was reported; and
 - (d) a copy of the record of any agreement made under **subsection (4)**.
- (3) If a report is not made in person, the authorised person who received the report must, as soon as practicable,— 20
 - (a) give the person making the report a unique reference number; and
 - (b) record that number on the relevant registrable offender's file and on the acknowledgement.
- (4) The Commissioner may make an agreement with the registrable offender as to the manner in which any reference number or acknowledgement required to be given by this section may be given. 25
- (5) The Commissioner must ensure—
 - (a) that there is a method of recording an agreement made under **subsection (4)**; and 30
 - (b) that, except with the written consent of the registrable offender, any reference number or acknowledgement required to be given by this section is given in accordance with the agreement while the agreement remains in force.
- (6) The Commissioner must ensure that a copy of every acknowledgement is retained. 35

- (7) In this section, **signature** includes an email signature or other form of electronic signature.
- Compare: Child Protection (Offenders Registration) Act 2000 s 12C (NSW); Child Sex Offenders Registration Act 2006 s 24 (SA)
- 27 Additional matters to be provided** 5
- (1) If a report is required to be made by attending in person, the person making the report must also—
- (a) present for inspection the registrable offender’s driver licence (if any) or any other form of identification or other document reasonably required by the constable or authorised person receiving the report to verify or support details in the report; and 10
- (b) if not the registrable offender, present for inspection his or her driver licence (if any) or other form of identification reasonably required by the constable or authorised person receiving the report.
- (2) The constable or authorised person receiving the report may waive any requirements of **subsection (1)** if the constable or authorised person is otherwise satisfied as to the identity of the person making the report. 15
- (3) If a report is required to be made by attending in person, the person making the report must also present for inspection the registrable offender’s current passport (if any). 20
- (4) The constable or authorised person receiving the report may copy any document presented ~~to the police officer~~ for inspection under **subsection (1) or (3)**.
- (5) If a report is made otherwise than in person, the regulations—
- (a) may specify the circumstances in which— 25
- (i) information will be required concerning the identity of the registrable offender and the identity of the person making the report; or
- (ii) a document will be required verifying or supporting details in the report; and
- (b) may specify the manner in which that information or document is to be provided; and 30
- (c) may not require an original document to be provided.
- Compare: Child Sex Offenders Registration Act 2006 s 25 (SA)
- 28 Power to take fingerprints or fingerscan** 35
- A constable or an authorised person receiving a report made in person under this subpart may take, or may cause to be taken by a person authorised by the constable or the authorised person, the fingerprints or a fingerscan of the registrable offender if not reasonably satisfied as to the identity of the registrable of-

fender after the constable has examined all the material relating to identity provided or presented to him or her by, or on behalf of, the registrable offender.

Compare: Child Sex Offenders Registration Act 2006 s 26(1) (SA)

29 Power to take photographs

A constable or an authorised person receiving a report made in person under this subpart may take, or may cause to be taken by a person authorised by the constable or the authorised person, photographs of the registrable offender for the purpose of ongoing identification. 5

Compare: Child Sex Offenders Registration Act 2006 s 27(1) (SA)

30 Constable or authorised person must inform offender before exercising power 10

Before attempting to exercise a power under **section 28 or 29**, the constable or authorised person must inform the registrable offender in language likely to be understood by him or her—

- (a) of the purpose for which the power is to be exercised; and 15
- (b) that the Commissioner will retain the fingerprints, fingerscan, or photographs (as the case may be).

Compare: Child Sex Offenders Registration Act 2006 s 28(1) (SA)

31 Identifying particulars and other information may be stored by Police

- (1) Any identifying particulars of a person and any other information obtained by the Police under this subpart may be entered, recorded, and stored on a Police information recording system. 20
- (2) Information recorded on any Police information recording system is not information held in the register for the purposes of this Act.
- (3) If the Commissioner under **section 47(5)(b)** revokes a decision to place the person on the register, the Commissioner must ensure that any identifying particulars of the person and other information about the person obtained by Police under this subpart are removed from any Police information recording system on which they are stored. 25

Modified reporting procedures for protected witnesses 30

32 Modified reporting procedures for protected witnesses

- (1) This section applies to each of the following persons:
 - (a) any registrable offender who is currently a participant in a witness protection programme;
 - (b) any registrable offender who has been a participant in a witness protection programme but in respect of whom an order under this section is yet to be made: 35

- (c) any registrable offender who is the subject of an order in force under this section declaring that the offender is a person to whom this section applies.
- (2) This section (except **subsections (4) to (7)**) also applies to a registrable offender who is receiving protection under a foreign witness protection law or foreign witness protection scheme specified by the regulations for the purposes of this subsection, or who has the same status as such a person under an order made under a corresponding Act specified by the regulations for the purposes of this subsection. 5
- (3) It is sufficient compliance with the requirements of this Part— 10
- (a) if a person to whom this section applies provides information required by the Commissioner, at the times and in the manner authorised by the Commissioner for the purposes of this section; and
- (b) if the acknowledgement of the giving of the information is given in a manner approved by the Commissioner; and 15
- (c) if copies of relevant documents, rather than originals, are provided.
- (4) The Commissioner must make an order declaring that a registrable offender who is or has been a participant in a witness protection programme either is, or is not, a person to whom this section applies—
- (a) when the person voluntarily ceases to be a participant in the programme; 20
or
- (b) when the Commissioner makes a decision that the protection and assistance given to the person be terminated.
- (5) On making such an order, the Commissioner must take reasonable steps to notify the person concerned of the terms of the order. 25
- (6) A person who receives such a notification may, within 14 days after receiving it, apply in writing to the Commissioner for a review of the decision.
- (7) On receiving an application referred to in **subsection (6)**, the Commissioner—
- (a) must review the order, and confirm or reverse it; and 30
- (b) before making a decision on the matter, must give the applicant a reasonable opportunity to state his or her case; and
- (c) after making a decision on the matter, must give written notice of the decision to the applicant.
- Compare: Child Protection (Offenders Registration) Act 2000 s 13(1)-(6) (NSW) 35

Reporting period and period on register

33 When reporting obligations begin

For the purposes of this subpart, a registrable offender's reporting obligations ~~begin on the later of the following events: begin—~~ begin—

- (a) ~~when the person is sentenced for a qualifying offence;~~
- (b) ~~when the person ceases to be in custody in relation to a qualifying offence.~~
- (a) when the person ceases to be in custody in relation to a qualifying offence; or 5
- (b) when the person (who has received a non-custodial sentence) is made subject to a registration order at the time of sentencing for a qualifying offence; or
- (c) in the case of a corresponding registrable offender,—
- (i) when the person enters New Zealand from a foreign jurisdiction to reside in New Zealand (if a New Zealand or Australian citizen or holder of a resident's visa); or 10
- (ii) when the person demonstrates an intention to reside in New Zealand by applying for a resident's visa after entering New Zealand from a foreign jurisdiction. 15

Compare: Child Protection (Offenders Registration) Act 2000 s 14 (NSW); Sex Offenders Registration Act 2004 s 33 (Vic)

34 **Length of reporting period and period on register**

- (1) A registrable offender must continue to comply with the reporting obligations imposed by this subpart for— 20
- (a) the remainder of the offender's life, if the offender has been sentenced to a term of imprisonment for ~~a class 1 class 3 offence~~ or for an equivalent repealed offence that corresponds to a class 3 offence; or
- (b) 15 years, if the offender has been sentenced to a term of imprisonment for a class 2 offence or for an equivalent repealed offence that corresponds to a class 2 offence; or 25
- (c) 8 years, if the offender has been sentenced to a term of imprisonment for ~~a class 3 class 1 offence~~ or for an equivalent repealed offence that corresponds to a class 1 offence; or
- (d) 8 years, if the offender has been sentenced to a non-custodial sentence for a qualifying offence and is subject to a registration order. 30
- (2) **Subsection (1) applies to a corresponding registrable offender—**
- (a) as if the corresponding offence of which the offender was found guilty was the qualifying offence to which it most closely corresponds; and
- (b) in the case of an offender who has not been sentenced to imprisonment for the corresponding offence of which the offender was found guilty, as if the offender had been sentenced to a non-custodial sentence for a qualifying offence and were subject to a registration order. 35

- (3) However, for the purpose of calculating the length of a corresponding registrable offender's reporting period, and despite **section 33(c)**, the period is taken to have begun—
- (a) when the offender ceased to be in custody in relation to the corresponding offence of which the offender was found guilty; or 5
- (b) in the case of an offender who has not been sentenced to imprisonment for the corresponding offence of which the offender was found guilty, when the offender was found guilty of that offence.
- (4) A registrable offender remains on the register for the duration of his or her reporting period, including (despite **section 35(5)**) any period during which his or her reporting obligations are suspended. 10

Compare: Child Protection (Offenders Registration) Act 2000 s 14A(1) (NSW); Sex Offenders Registration Act 2004 s 34(1) (Vic)

35 Suspension of reporting obligations

- (1) A registrable offender's reporting obligations are suspended for any period during which— 15
- (a) he or she is in custody for more than 7 days; or
- (b) he or she is outside New Zealand, unless he or she is a person to whom **section 32** applies or the obligation is under **section 21**; or
- (c) the Commissioner has suspended the offender's reporting obligations under **subsection (2)**; or 20
- (d) a court order suspending the offender's reporting obligations under **section 36A(4)** is in force.
- (2) The Commissioner may, on his or her own initiative or on the application of the offender, suspend the reporting obligations of a registrable offender if the Commissioner is satisfied, on reasonable grounds,— 25
- (a) that the offender does not pose a risk to the lives or sexual safety of ~~a~~ child or 1 or more children, or of children generally; and
- (b) that the offender has a terminal illness or a significant cognitive or physical impairment that makes it difficult or impossible for the offender to fulfil his or her reporting obligations. 30
- (3) The Commissioner must, as soon as is reasonably practicable, give the registrable offender written notice of a decision made under **subsection (2)**—
- (a) to suspend the offender's reporting obligations; or
- (b) to deny an application to suspend the offender's reporting obligations. 35
- (4) A suspension granted under **subsection (2)** takes effect when the Commissioner gives the notice to the registrable offender.

- (5) Any period during which a registrable offender's reporting obligations are suspended under **subsection (1)** is not to be taken into account for the purpose of calculating when the offender's reporting period ends.

Compare: Child Protection (Offender Reporting) Act 2004 ss 67C, 67D(1), (5), (6), (7) (Qld); Child Sex Offenders Registration Act 2006 s 32 (SA)

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36 Revocation of suspension by Commissioner

- (1) The Commissioner may at any time revoke a suspension granted under **section 35(2)** if the Commissioner believes, on reasonable grounds,—

- (a) that the registrable offender poses, or may pose, a risk to the lives or sexual safety of a child or children, or of children generally; or
- (b) that the offender no longer has an illness or impairment that makes it difficult or impossible for the offender to fulfil his or her reporting obligations.

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- (2) If the Commissioner revokes a suspension, he or she must give the registrable offender written notice of the revocation as soon as is reasonably practicable.

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- (3) The revocation takes effect when the Commissioner gives the notice to the registrable offender.

Compare: Child Protection (Offender Reporting) Act 2004 s 67F (Qld)

36A District Court may suspend lifetime reporting obligations on application

- (1) A registrable offender who is subject to lifetime reporting obligations under **section 34(1)(a)**, and who is eligible under **subsection (2)**, may apply to the District Court to have his or her reporting obligations indefinitely suspended.

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- (2) A registrable offender is eligible under this subsection if—

- (a) the offender has been subject to lifetime reporting obligations for not less than 15 years; and

25

- (b) the offender is not currently on parole or subject to any post-sentence order (for example, a public protection order or an extended supervision order); and

- (c) the District Court has not in the last 5 years heard and declined an application by the offender under this section.

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- (3) Police and the Department of Corrections are parties to an application made under **subsection (1)** and are entitled to be heard on the application.

- (4) The court may make an order indefinitely suspending the reporting obligations of the offender only if the offender satisfies the court that he or she does not pose a risk to the lives or sexual safety of 1 or more children, or of children generally.

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- (5) For the purpose of assessing the risk posed by the offender, the court must consider the following matters:

- (a) the seriousness of the qualifying offence or the corresponding offence:
- (b) the period of time that has elapsed since the offence was committed:
- (c) the age of the offender:
- (d) the age of the offender at the time of the offence:
- (e) the age of any victim of the offence at the time of the offence: 5
- (f) the difference in age between the victim and the offender at the time of the offence:
- (g) any written assessment of the risk posed by the offender:
- (h) any submission or evidence from any victim of the offence:
- (i) any other submission or evidence relating to the risk posed by the offender: 10
- (j) any other matter that the court considers relevant.
- (6) Despite **subsection (2)(c)**, if the court declines an application under this section it may order that the offender is eligible to make another application within or after a specified period or specified date that is less than 5 years away. 15
- (7) The Police or the Department of Corrections may apply to the District Court for an order to revoke a suspension granted under **subsection (4)** if they believe on reasonable grounds that there has been a change in the risk posed by the offender since the suspension was granted.
- (8) The court may grant an application under **subsection (7)** by making an order to revoke a suspension granted under **subsection (4)** only if the Police or the Department of Corrections satisfy the court that the offender poses a risk to the lives or sexual safety of 1 or more children, or of children generally. 20

Offences

- 37 Offence of failing to comply with reporting obligations** 25
- (1) A registrable offender commits an offence if the offender fails to comply with any of his or her reporting obligations without reasonable excuse.
- (2) An offender who is convicted of an offence under this section is liable to imprisonment for a term not exceeding 1 year, or a fine not exceeding \$2,000, or both. 30
- Compare: Child Protection (Offenders Registration) Act 2000 s 17(1) (NSW); Sex Offenders Registration Act 2004 s 46(1) (Vic); Child Protection (Offender Reporting) Act 2004 s 50(1) (Qld); Child Sex Offenders Registration Act 2006 s 44(1) (SA)
- 38 Offence of providing false or misleading information**
- (1) A registrable offender commits an offence if the offender, in purported compliance with this subpart, provides information that the offender knows to be false or misleading in a material particular. 35

- (2) An offender who is convicted of an offence under this section is liable to imprisonment for a term not exceeding 2 years, or a fine not exceeding \$4,000, or both.

Compare: Child Protection (Offenders Registration) Act 2000 s 18 (NSW); Sex Offenders Registration Act 2004 s 47 (Vic); Child Protection (Offender Reporting) Act 2004 s 51(1) (Qld); Child Sex Offenders Registration Act 2006 s 45(1) (SA)

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Subpart 3—Access to register and information sharing

39 Access to register to be restricted

- (1) The Commissioner must ensure that the register, or any part of the register, is only accessed by a person, or a class of persons, that is authorised to do so by the Commissioner in accordance with guidelines issued in accordance with this section. 10

- (2) The Commissioner must issue guidelines in relation to access to the register to ensure that—

(a) information contained ~~on~~ in the register is used only for the purpose of investigating offences listed in ~~the Schedule~~ **Schedule 2** and resolving cases of child sex offending; and 15

(b) access to information contained in the register is available to enable the monitoring of child sex offenders in the community, including after completion of their sentence or order. 20

- (3) Despite **subsection (2)**, the guidelines may authorise the use of information contained in the register for a purpose other than the purpose for which the information was obtained if an authorised person reasonably believes such use is necessary to—

(a) prevent, detect, investigate, or prosecute an imprisonable offence; or 25

(b) prevent or reduce a threat to public safety, particularly a threat to the life, welfare, or sexual safety of a child or children.

- (4) For the purposes of this section, the register includes any information from any register maintained under a corresponding ~~law~~ Act that is accessible by the Commissioner, regardless of whether that information is physically part of the register. 30

- (5) This section has effect despite any other enactment or law to the contrary.

Compare: Sex Offenders Registration Act 2004 s 63(1)–(4) (Vic); Child Protection (Offender Reporting) Act 2004 s 69 (Qld); Child Sex Offenders Registration Act 2006 s 61 (SA)

40 Restriction on who may access information on protected witness 35

The Commissioner must ensure that any information in the register about a person to whom **section 32** applies, whose identity is apparent or can reasonably be ascertained from that information, can only be accessed in accordance with guidelines issued by the Commissioner for that purpose under **section 39**.

Compare: Child Protection (Offenders Registration) Act 2000 s 19A (NSW) 40

- 41 Information sharing between government agencies in interest of public safety**
- (1) A specified agency may disclose personal information in the register to another specified agency for any of the following purposes:
- (a) monitoring the whereabouts of the offender: 5
 - (b) verifying personal information reported by the offender:
 - (c) managing the risk that the offender may commit further sexual offences against children:
 - (d) managing any risk to public safety.
- (2) In this section, **specified agency** means— 10
- (a) the Police:
 - (b) the Department of Corrections:
 - (c) the Ministry of Social Development:
 - (d) Housing New Zealand Corporation:
 - (e) any public sector agency (as that term is defined in section 2 of the Privacy Act 1993) that the Minister, after consultation with the Privacy Commissioner, identifies as a specified agency by notice in the *Gazette*. 15
- (3) Nothing in this section limits or affects—
- (a) the ability of an agency to access law enforcement information in accordance with section 111 of the Privacy Act 1993; or 20
 - (b) the ability of an agency to disclose personal information about a child sex offender in accordance with section 182A of the Corrections Act 2004.
- Compare: 2004 No 50 ss 182A(3)(b), 182C; 2014 No 40 s 5(1)
- 42 Disclosure of information to corresponding Registrar or corresponding law enforcement agency** 25
- The Commissioner may disclose personal information in the register to a corresponding Registrar or to a corresponding law enforcement agency for the purposes of a corresponding Act.
- Compare: Child Protection (Offender Reporting) Act 2004 s 71 (Qld) 30
- 43 Disclosure of information to affected person where threat to child safety or welfare**
- (1) The Commissioner may disclose personal information in the register to an affected person if the Commissioner believes on reasonable grounds that the registrable offender poses a threat to the life, welfare, or sexual safety of a particular child or particular children. 35
- (2) The Commissioner may authorise a specified agency to disclose personal information in the register to an affected person if the Commissioner believes on

reasonable grounds that the registrable offender poses a threat to the life, welfare, or sexual safety of a particular child or particular children.

(3) In this section, **affected person** means a person who is, in relation to a child referred to in **subsection (1) or (2)**,—

- (a) a parent or guardian of the child; or 5
- (b) a teacher or regular caregiver of the child; or
- (c) for the time being, responsible for the custody or well-being of the child.

44 Disclosure where identity suppressed

(1) Personal information in the register may be disclosed under **sections 41 to 43** even if the identity of the registrable offender is subject to a suppression order under section 200 of the Criminal Procedure Act 2011 or has been automatically suppressed under section 201 of that Act. 10

(2) The Commissioner or a specified agency must ensure, when disclosing personal information in the register in relation to a registrable offender whose identity is suppressed, that the disclosure is accompanied by notice of the suppression order or automatic suppression. 15

45 Confidentiality

(1) A person authorised to have access to the register or any part of the register must not disclose any personal information in the register, unless the person is— 20

- (a) authorised by the Commissioner to disclose the information; or
- (b) otherwise permitted or required, under any enactment or other law, to disclose the information.

(2) A person to whom personal information about a registered offender is disclosed under this subpart must not disclose that information to any other person unless that disclosure is— 25

- (a) made with the consent of the Commissioner given (either generally or in a particular case) for the purposes of ensuring the safety or protection of a child or of children generally; or
- (b) otherwise permitted or required under any enactment or other law. 30

(3) A person who contravenes **subsection (1)** or who without reasonable excuse contravenes **subsection (2)** commits an offence and is liable on conviction to,—

- (a) in the case of an individual, imprisonment for a term not exceeding 6 months; and 35
- (b) in the case of a body corporate, a fine not exceeding ~~\$25,000~~ \$50,000.

Compare: Child Protection (Offenders Registration) Act 2000 s 21E(d) (NSW); Child Protection (Offender Reporting) Act 2004 s 70(1) (Qld)

46 Registrable offender's rights in relation to register

- (1) If asked, in writing, to do so by a registrable offender, the Commissioner must provide the registrable offender with all of the reportable information that is held in the register in relation to the registrable offender.
- (2) The Commissioner must comply with **subsection (1)** as soon as practicable after being asked to do so. 5
- (3) A registrable offender may make a written request to the Commissioner to amend any reportable information held in the register in relation to the registrable offender that is incorrect (and the Commissioner must, if satisfied that it is incorrect, amend the information). 10
- (4) The Commissioner must take reasonable steps to notify the registrable offender as to whether the Commissioner will comply with a request under **subsection (3)**.
- (5) If the Commissioner denies a request made under **subsection (3)**, the Commissioner must ensure that the details of the request and the denial of the request are recorded in the register. 15

Compare: Child Protection (Offenders Registration) Act 2000 s 19B(1)–(4) (NSW); Sex Offenders Registration Act 2004 s 66(1)–(4) (Vic); Child Protection (Offender Reporting) Act 2004 s 73(1)–(4) (Qld); Child Sex Offenders Registration Act 2006 s 63(1)–(4) (SA)

47 ~~Review about entry on register~~ Review where error in placement on register or reporting period 20

- (1) This section applies if a person believes that—
- (a) the person has been placed on the register in error; or
- (b) an error has been made in working out the length of the person's reporting period. 25
- (2) The person may apply in writing to the Commissioner to review the following:
- (a) the decision to place the person on the register; or
- (b) the decision about the length of the person's reporting period.
- (3) The application must be made within 28 days after the person is given notice of his or her reporting obligations under **section 11, 12, 13, or 14**. 30
- (4) The person's reporting obligations are not suspended because the person made the application.
- (5) On receiving an application for a review, the Commissioner must—
- (a) give the person a reasonable opportunity to state his or her case before making a decision on the matter; and 35
- (b) if the application relates to a decision to place the person on the register, review the decision to place the person on the register and confirm or revoke it; and

- (c) if the application relates to a decision about the length of the person's reporting period, review the decision and confirm or change it; and
- (d) give the person written notice of—
- (i) the decision; and
 - (ii) the person's right under **section 46** to a copy of all reportable information that is held in the register in relation to the ~~person~~, person; and
 - (iii) if confirming the decision to place the person on the register or the decision about the length of the person's reporting period, the person's right of appeal under **section 47A**.
- (6) If the Commissioner revokes a decision to place a person on the register, the Commissioner must ensure that the person's relevant personal information is removed from the register, and any copies of documents, fingerprints, finger-scans, or photographs taken from the person under this Act are not kept.
- (7) If the Commissioner changes a decision about the length of a person's reporting period, the Commissioner must ensure that the entry for the reporting period on the register is corrected.

Compare: Child Protection (Offender Reporting) Act 2004 s 74 (Qld)

47A Appeal to District Court

- (1) This section applies if a person has received written notice under **section 47(5)(d)** of a review decision by the Commissioner to confirm a decision specified in **section 47(2)**.
- (2) The person may, within 30 days after receiving the notice, appeal to the District Court against the review decision.
- (3) On an appeal under **subsection (2)**, the court must inquire into the decision and may confirm, vary, or set aside the decision.
- (4) The decision of the District Court is final.

48 Exclusion of liability

An act or omission that a person does or omits to do in good faith in the administration or execution of, or in accordance with, this Act does not subject the person personally to any action, liability, claim, or demand.

Compare: Sex Offenders Registration Act 2004 s 71 (Vic)

Subpart 4—Restrictions on change of name by offender

48A Application of subpart

This subpart applies despite anything to the contrary in the Births, Deaths, Marriages, and Relationships Registration Act 1995.

Compare: Child Protection (Offenders Registration) Act 2000 (NSW) s 19C(1)

48B Application for change of name by registrable offender

(1) A registrable offender must not apply to the Registrar-General to register a change of his or her name under the Births, Deaths, Marriages, and Relationships Registration Act 1995 without first having obtained the written approval of the Commissioner. 5

(2) An offender who, without reasonable excuse, contravenes **subsection (1)** commits an offence and is liable on conviction to imprisonment for a term not exceeding 2 years, or a fine not exceeding \$4,000, or both.

Compare: Child Protection (Offenders Registration) Act 2000 (NSW) s 19E(1)

48C Approval by Commissioner 10

(1) In deciding whether to approve the making of a change of name application referred to in **section 48B**, the Commissioner must consider each of the following:

(a) the safety of the registrable offender and other persons;

(b) the registrable offender's rehabilitation or care or treatment; 15

(c) whether the proposed name change could be used to further an unlawful activity or purpose;

(d) whether the proposed name change is likely to frustrate the administration of this Act in respect of the registrable offender;

(e) whether the proposed name change could be considered offensive to a victim of a crime or an immediate family member of a deceased victim of a crime. 20

(2) If the Commissioner approves the making of the application, the Commissioner must, as soon as is reasonably practicable, give written notice of the approval to the registrable offender who sought the approval. 25

Compare: Child Protection (Offenders Registration) Act 2000 (NSW) s 19F(2)(b), (3); Child Protection (Offender Reporting) Act 2004 (Qld) s 74A(3)

Part 3**Miscellaneous matters***Regulations* 30**49 Regulations**

The Governor-General may, by Order in Council, make regulations for any of the following purposes:

(a) prescribing certain laws of foreign jurisdictions to be corresponding Acts for the purposes of this Act: 35

(b) ~~excluding any person or class of persons from being a registrable offender.~~

- (c) prescribing details relating to the administration of the register:
- (d) specifying, if a report is made otherwise than in person under **section 24(2) or (5)(b)**,—
 - (i) the circumstances in which information will be required concerning the identity of the registrable offender and the identity of the person making the report, or a document will be required verifying or supporting details in the report; and
 - (ii) the manner in which that information or document is to be provided:
- (e) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

50 ~~Power to amend Schedule by Order in Council~~

- ~~(1) The Governor General may, by Order in the Council made on the recommendation of the Minister, amend the lists of qualifying offences set out in the Schedule.~~
- ~~(2) An Order in Council made under **subsection (1)** is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.~~
- ~~(3) An Order in Council made under **subsection (1)**,—~~
 - ~~(a) if made on or before 30 June in any year, expires on the close of 30 June in the following year unless it is expressly confirmed by an Act of Parliament passed before that date; and~~
 - ~~(b) if made on or after 1 July in any year, expires on the close of 31 December in the following year unless it is expressly confirmed by an Act of Parliament passed before that date.~~
- ~~(4) The expiry of an Order in Council made under **subsection (1)** does not affect the validity of any act done pursuant to, or in accordance with, the Order in Council before the Order in Council expires.~~

Transitional provisions

51 ~~Retrospective application~~

- ~~(1) This Act applies to registrable offenders who, on the date this Act comes into force, are, in respect of a qualifying offence,—~~
 - ~~(a) serving the sentence that was imposed for that offence; or~~
 - ~~(b) subject to an extended supervision order following that sentence.~~
- ~~(2) As soon as practicable after this Act comes into force, the Commissioner must give written notice to every registrable offender referred to in **subsection (1)(b)** of—~~
 - ~~(a) the offender's reporting obligations; and~~

- (b) ~~the penalties for failing to comply with those obligations.~~
- (3) ~~A registrable offender referred to in **subsection (1)(b)** must make an initial report to the Commissioner of all relevant personal information within 72 hours of receiving notice under **subsection (2)**, or within such longer period as may be specified in the notice.~~ 5
- (4) ~~Despite **section 33**, in the case of a registrable offender referred to in **subsection (1)(b)**,~~
- (a) ~~the offender's reporting obligations begin when the offender receives notice under **subsection (2)**; and~~
- (b) ~~for the purpose of calculating the length of the reporting period, the offender's reporting period is taken to have begun on the later of the following events:~~ 10
- (i) ~~when the person was sentenced for a qualifying offence;~~
- (ii) ~~when the person ceased to be in custody in relation to a qualifying offence.~~ 15
- (5) ~~For the purposes of **subsection (1)(a)**, a person who is released from custody on conditions or on parole is still serving the sentence that was imposed for the qualifying offence.~~

Consequential amendments to Corrections Act 2004

- 52 **Corrections Act 2004 amended** 20
Sections 53 and 54 amend the Corrections Act 2004.
- 53 **Section 182A amended (Information sharing about child sex offenders)**
 In section 182A(3)(a), replace “or conditions of an extended supervision order” with “conditions of an extended supervision order, restrictions related to a public protection order under the Public Safety (Public Protection Orders) Act 2014, or requirements of a protective supervision order under the Public Safety (Public Protection Orders) Act 2014”. 25
- 54 **Section 182B amended (Definition of child sex offender)**
 Replace section 182B(1)(a) with:
 (a) has been convicted of a qualifying offence or a corresponding offence as defined in **section 4** of the **Child Protection (Child Sex Offender Register) Act 2015**; and 30

Consequential amendment to Criminal Procedure Act 2011

- 55 **Criminal Procedure Act 2011 amended**
- (1) This section amends the Criminal Procedure Act 2011. 35
- (2) After section 209(2)(b), insert:

- (ba) any specified agency, corresponding Registrar, corresponding overseas agency, or affected person within the meaning of the **Child Protection (Child Sex Offender Register) Act 2015** in accordance with **section 41 to 43** of that Act; or

Schedule 1
Transitional, savings, and related provisions

s 4A

Part 1
Provisions relating to Act as enacted

5

1 Retrospective application

- (1) This Act applies to registrable offenders who, on the date this Act comes into force, are, in respect of a qualifying offence,—
- (a) servicing, in custody, the sentence of imprisonment that was imposed for that offence; or 10
 - (b) servicing, on parole or other form of conditional release from custody, the sentence of imprisonment that was imposed for that offence; or
 - (c) servicing the non-custodial sentence that was imposed for that offence; or
 - (d) subject to an extended supervision order or an interim extended supervision order following that sentence; or 15
 - (e) the subject of an application for an extended supervision order that will, if granted, apply following that sentence; or
 - (f) subject to a public protection order or an interim public protection order following that sentence; or
 - (g) the subject of an application for a public protection order that will, if granted, apply following that sentence. 20
- (2) This Act also applies to registrable offenders who, on the date this Act comes into force,—
- (a) are residents of New Zealand or have demonstrated an intention to remain in New Zealand for 30 days or longer; and 25
 - (b) satisfy the definition of corresponding registrable offender in **section 7** (the relevant finding of guilt for a corresponding offence being one that occurred before the date on which this Act comes into force).
- (3) As soon as practicable after this Act comes into force, the Commissioner must cause written notice to be given to every registrable offender referred to in **subclause (1)(b), (c), (d), (e), (f) and (g) and (2)** of— 30
- (a) the offender's reporting obligations; and
 - (b) the penalties for failing to comply with those obligations.
- (4) A registrable offender referred to in **subclause (1)(b), (c), (d), (e), (f) and (g) or (2)** must make an initial report to the Commissioner of all relevant personal information within 72 hours of receiving notice under **subclause (3)**, or within such longer period as may be specified in the notice. 35

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- (5) Despite **section 33**, in the case of a registrable offender referred to in **subclause (1)(b), (c), (d), (e), (f) and (g) or (2)**,—
- (a) the offender’s reporting obligations begin when the offender receives notice under **subclause (3)**; and
- (b) for the purpose of calculating the length of the reporting period, the offender’s reporting period is taken to have begun on the later of the following events: 5
- (i) when the person was sentenced for a qualifying offence or a corresponding offence;
- (ii) when the person ceased to be in custody in relation to a qualifying offence or a corresponding offence. 10

Schedule Schedule 2

Qualifying offences

s 4

- 1 **Class 1 offence** ~~means an offence against any of the following provisions of the Crimes Act 1961: means—~~ 5
- (a) ~~section 128B(1) (sexual violation), if the victim is under 16:~~
- (b) ~~section 129(1) (attempted sexual violation), if the victim is under 16:~~
- (c) ~~section 129(2) (assault with intent to commit sexual violation), if the victim is under 16:~~
- (d) ~~section 129A(1) (sexual connection with consent induced by threat), if the victim is under 16:~~ 10
- (e) ~~section 130(2) (incest), if the victim is under 16:~~
- (f) ~~section 131(1) (sexual connection with a dependent family member), if the victim is under 16:~~
- (g) ~~section 131(2) (attempted sexual connection with a dependent family member), if the victim is under 16:~~ 15
- (h) ~~section 132(1) (sexual connection with child under 12):~~
- (i) ~~section 132(2) (attempted sexual connection with a child under 12):~~
- (j) ~~section 134(1) (sexual connection with a young person under 16):~~
- (k) ~~section 134(2) (attempted sexual connection with a young person under 16):~~ 20
- (l) ~~section 138(1) (exploitative sexual connection with person with significant impairment), if the victim is under 16:~~
- (m) ~~section 138(2) (attempted exploitative connection with person with significant impairment), if the victim is under 16:~~ 25
- (n) ~~section 142 (anal intercourse) (repealed), if the victim is under 16:~~
- (o) ~~section 144A(1), (2), and (3) (sexual conduct with child or young person outside New Zealand):~~
- (a) an offence against any of the following provisions of the Crimes Act 1961: 30
- (i) section 131B(1) (meeting young person following sexual grooming):
- (ii) section 136 (conspiracy to induce sexual intercourse), if the victim is under 16 (repealed):
- (iii) section 144A(4) (breach outside New Zealand of prohibitions on use in prostitution of persons under 18 years) in relation to an act specified in section 20, 21, or 22(1) of the Prostitution Reform Act 2003: 35

- (iv) section 144C(1) (organising or promoting child sex tours):
- (v) section 208 (abduction for purposes of marriage or sexual connection), if the victim is under 16 and the offender has the intention to have sexual connection:
- (b) an offence against any of the following provisions of the Films, Videos, and Publications Classification Act 1993: 5
- (i) section 124 (offences involving knowledge in relation to objectionable publications):
- (ii) section 127(4) (exhibition to persons under the age of 18 years):
- (iii) section 131A (offences relating to possession of objectionable publications, involving knowledge). 10
- 2 **Class 2 offence** means an offence against ~~or under~~ any of the following provisions of the Crimes Act 1961:
- (a) ~~section 98AA(1)(d)(i), (e)(i), (f)(i), and (g)(i) (dealing in people under 18 for sexual exploitation), if the victim is under 16:~~ 15
- (b) section 129A(2) (indecent act with consent induced by threat), if the victim is under 16:
- (c) section 131(3) (indecent act on a dependent family member), if the victim is under 16:
- (d) section 132(3) (indecent act on child under 12): 20
- (e) section 133(1) (indecency with a girl under 12) (repealed):
- (f) section 134(3) (indecent act on young person under 16):
- (fa) section 135 (indecent assault), if the victim is under 16:
- (g) ~~section 136 (conspiracy to induce sexual intercourse), if the victim is under 16 (repealed):~~ 25
- (h) section 137 (inducing sexual intercourse under pretence of marriage), if the victim is under 16 (repealed):
- (i) section 138(4) (exploitative indecent act on person with significant impairment), if the victim is under 16:
- (j) section 139(1) (indecent act between woman and girl) (repealed): 30
- (k) section 140(1) (indecency with boy under 12) (repealed):
- (l) section 140A(1) (indecency with boy between 12 and 16) (repealed):
- (m) section 141(1) (indecent assault on man or boy) (repealed):
- (n) section 144A(1) (sexual conduct with child or young person outside New Zealand) in relation to an act specified in section 144A(2)(c) or (3)(c): 35

- (o) section 144AB(1) (party or accessory to sexual conduct with child or young person outside New Zealand) in relation to an offence specified in paragraph (n) of this clause.
- 3 **Class 3 offence** means an offence against any of the following provisions of the Crimes Act 1961: 5
- (a) ~~section 131B(1) (meeting young person following sexual grooming):~~
- (b) ~~section 135 (indecent assault), if the victim is under 16:~~
- (c) ~~section 141(1) (indecent assault on man or boy) (repealed):~~
- (d) ~~section 144C(1) (organising or promoting child sex tours):~~
- (e) ~~section 208 (abduction for purposes of marriage or sexual connection), if the victim is under 16 and the offender had the intention to have sexual connection.~~ 10
- (a) section 128B(1) (sexual violation), if the victim is under 16:
- (b) section 129(1) (attempted sexual violation), if the victim is under 16:
- (c) section 129(2) (assault with intent to commit sexual violation), if the victim is under 16: 15
- (d) section 129A(1) (sexual connection with consent induced by threat), if the victim is under 16:
- (e) section 130(2) (incest), if the victim is under 16:
- (f) section 131(1) (sexual connection with dependent family member), if the victim is under 16: 20
- (g) section 131(2) (attempted sexual connection with dependent family member), if the victim is under 16:
- (h) section 132(1) (sexual connection with child under 12):
- (i) section 132(2) (attempted sexual connection with child under 12): 25
- (j) section 134(1) (sexual connection with young person under 16):
- (k) section 134(2) (attempted sexual connection with young person under 16):
- (l) section 138(1) (exploitative sexual connection with person with significant impairment), if the victim is under 16: 30
- (m) section 138(2) (attempted exploitative connection with person with significant impairment), if the victim is under 16:
- (n) section 142 (anal intercourse) (repealed), if the victim is under 16:
- (o) section 144A(1) (sexual conduct with child or young person outside New Zealand) in relation to an act specified in section 144A(2)(a) or (b) or (3)(a) or (b): 35

- (p) section 144A(4) (breach outside New Zealand of prohibitions on use in prostitution of persons under 18 years) in relation to an act specified in section 22(2) of the Prostitution Reform Act 2003:
- (q) section 144AB(1) (party or accessory to sexual conduct with child or young person outside New Zealand) in relation to an offence specified in **paragraph (o)** of this clause. 5
- 4 An offence that relates to the same or substantially similar conduct as an offence against any provision referred to in clause 1, 2, or 3, but that was committed against a provision of the Crimes Act 1961 that has been repealed, or against another enactment that has been repealed, is a qualifying offence. 10

Legislative history

13 August 2015
15 September 2015

Introduction (Bill 16–1)
First reading and referral to Social Services Committee